# SUPREME COURT OF THE UNITED STATES.

## OCTOBER TERM, 1904.

## No. 413.

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THE UNITED STATES, PETITIONER,

vs.

MORRIS WHITRIDGE AND RICHARD J. WHITE, TRADING AS WHITRIDGE, WHITE & COMPANY.

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ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FOURTH CIRCUIT.

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C. 33582.
F. 4368-98.

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United States circuit court of appeals, fourth circuit.

WILLIAM F. STONE, COLLECTOR OF CUSTOMS FOR THE district and port of Baltimore, Maryland, appellant,
*versus*
MORRIS WHITRIDGE AND RICHARD J. WHITE, TRADING as Whitridge, White & Co., appellees. } No. 518.

Appeal from the circuit court of the United States for the district of Maryland.

Record filed October 27th, 1903.

Clerk's office, U. S. circuit court of appeals, fourth circuit. Henry T. Meloney, clerk, Richmond.

1 Transcript of record.

THE UNITED STATES OF AMERICA,
*District of Maryland, to wit:*

At a circuit court of the United States for the fourth circuit, in and for the district of Maryland, begun and held at the court-house in the city of Baltimore, on the first Monday of April, being the sixth day of the same month, in the year of our Lord one thousand nine hundred and three.

Present: The Honorable Thomas J. Morris, judge of the Maryland district; John C. Rose, esq., attorney; John F. Langhammer, esq., marshal; James W. Chew, clerk.

Among other were the following proceedings, to wit:

WILLIAM F. STONE, COLLECTOR OF CUSTOMS for the district and port of Baltimore, Maryland,
*versus*
MORRIS WHITRIDGE AND RICHARD J. WHITE, trading as Whitridge, White & Company.

*Appeal of William F. Stone, collector, from the decision of the Board of U. S. General Appraisers.*

Filed 26th April, 1902.

In the circuit court of the United States in and for the district of Maryland.

WILLIAM F. STONE, COLLECTOR OF CUSTOMS, DISTRICT of Baltimore, Md.,
*vs.*
MORRIS WHITRIDGE AND RICHARD J. WHITE, trading at Whitridge, White & Co. } Petition.

*To the honorable the judge of said court:*

2 William F. Stone, collector of customs for the district and port of Baltimore, Maryland, hereby appeals to your honorable court for a review of a decision of the Board of the United States Gen-

eral Appraisers, dated March 29th, 1902 (General Appraisers' decision No. 5110), in the matter of the protest 49779-B/1321 of Whitridge, White & Co., against the decision of the collector of customs at Baltimore, Md., as to the amount of duties chargeable on certain merchandise invoiced in rupees, imported per "Barrowmore," and entered June 18th, 1900.

And your petitioner assigns the following errors of law made by the Board of United States General Appraisers, viz:

1st. The Board of United States General Appraisers erred in not holding that the reliquidation ordered by the Secretary of the Treasury under date of June 6th, 1901, and made by the collector, in pursuance of such order, on June 12th, 1901, which was within one year from the date of entry, was made in strict conformity with the provisions of the proviso to section 25 of the act of August 28th, 1894. (See sec. 21, act of June 22d, 1874; 18 U. S. Stat., p. 190.)

2nd. The Board of United States General Appraisers erred in not holding that said reliquidation of June 12th, 1901, having been ordered by the Secretary of the Treasury, acting under the authority conferred by the proviso to section 25 of the act of August 28th, 1894, no decision of the collector as to the rate and amount of duties is involved, and therefore this case does not fall within the jurisdiction of the Board of United States General Appraisers. (See sec. 14, act of June 10th, 1890; and in re W. C. Noon Bag. Co., G. A. 4288, Oct. 4th, 1898.)

3rd. The Board of United States General Appraisers erred in holding that the word "value," as used in the proviso to section 25 of the act of August 28th, 1894, should be construed as meaning "the value of the pure metal," just as in the body of said section; and in not holding that the words "value in United States currency," in the above-mentioned proviso, mean the actual commercial or exchange value of the foreign coin at the time of the exportation of the merchandise to the United States.

And in order that the said decision of the Board of United States General Appraisers may be reviewed upon the questions of law involved, your petitioner prays that a copy of the foregoing application and statement may be served upon the said Morris Whitridge and Richard J. White,
3 trading as Whitridge, White & Co., as provided in section 15 of the act entitled "An act to simplify the laws in relation to the collection of the revenue," approved June 10th, 1890.

And as in duty bound, etc.

WM. F. STONE, *Collector.*
W. L. P.

JNO. C. ROSE,
*United States Attorney.*

MEMORANDUM.—Copies of which said appeal were delivered to the marshal to be served on the defendants or appellees.

*Marshal's return.*

Served a copy of the within petition on Morris Whitridge and Richard J. White, trading as Whitridge, White & Company, by leaving a copy thereof with each of them, this 5th day of May, 1902.

WILLIAM F. AIREY,
*U. S. Marshal.*

*Order of court on Board of United States General Appraisers.*

Filed 8th May, 1902.

In the circuit court of the United States for the district of Maryland.

WILLIAM F. STONE, COLLECTOR OF CUSTOMS for the port of Baltimore, Maryland,
*vs.*
MORRIS A. WHITRIDGE AND RICHARD J. White, trading as Whitridge, White & Company.

A copy of the petition in the above entitled cause having been duly served on each of the defendants, as appears by the return of the United States marshal, it is thereupon ordered by the court this 8th day of May, nineteen hundred and two, that the Board of United States General Appraisers return to the circuit court of the United States for the district of Maryland the record and evidence taken before them, together with a certified statement of the facts involved, in the matter of the protest
49779–B 1321 of Whitridge, White & Company against the
4 decision of the collector of customs at Baltimore, Maryland, as to the amount of duties chargeable on certain merchandise invoiced as rupees, imported per "Barrowmore," and entered June 18, 1900.

THOS. J. MORRIS, *Judge.*

MEMORANDUM.—A copy of which said order was forwarded to said Board of United States General Appraisers at New York on 13th day of May, 1902, by the clerk of said court.

*Appearance for appellees.*

Filed 13 May, 1902. MAY 12th, 1902.

Hon. CLERK U. S. CIRCUIT COURT,
*Baltimore, Md.*

DEAR SIR: I hereby request that you will kindly enter my appearance on the record as attorney for Messrs. Morris Whitridge and Richard J. White, trading as Whitridge, White & Co., appellees in the case of Stone, collector, against them, commenced in your circuit late in April.

Very respectively,

ALBERT COMSTOCK.

5 *Return of Board of U. S. General Appraisers.*

Filed 24 May, 1902.

In the circuit court of the United States for the district of Maryland.

[SEAL.]

J. R. LAKE,
*Chief Clerk Board of U. S. General Appraisers.*

In the matter of the application of the collector of customs of Baltimore, Md., for the review of a decision of the Board of U. S. General Appraisers as to the amount of duty on certain bagging imported by Whitridge, White & Co., per s/s "Barrowmore," June 18, 1900.

Return of the Board of United States General Appraisers to the order of Hon. Thomas J. Morris, district judge. Dated New York, May 23, 1902.

The Board of United States General Appraisers, sitting at New York, in response to the order of the court in the above matter, make the following return of the record and evidence taken by them in the above matter, and of the facts involved herein, as ascertained by them.

They state that a letter, hereto annexed as Exhibit A, was received from the collector of customs at Baltimore, Md., submitting, under the provisions of section 14 of the act of June 10, 1890, the protest marked Exhibit B, and described as follows:

| Colls. No. | Board No. | Protestants. | Vessel. | Date of entry. |
|---|---|---|---|---|
| 1321 | 49779-B | Whitridge, White & Co..... | Barrowmore ..... | June 18, '00 |

The copy of the instructions to the Secretary of the Treasury referred to in the collector's letters is annexed as Exhibit C.

A written objection was filed by the counsel for the Government to the admission of certain agreements referred to in the opinion. The same is annexed as Exhibit D.

On March 25th, 1902, a witness appeared in behalf of the importers and was examined before the board. A copy of the testimony is annexed as Exhibit E.

6 On March 29th, 1902, the board rendered its decision upon said protest. A copy of the opinion, known as G. A. 5110, is annexed as Exhibit F.

EXHIBIT A.

G. McC. R.
C. S. B.

OFFICE OF THE COLLECTOR OF CUSTOMS,
*Port of Baltimore, Md., July 27th, 1901.*

*The President of the General Board of United States General Appraisers, New York, N. Y.* 49779-B

SIR: I submit herewith the protests of Messrs. Whitridge, White & Co. (No. 1321, "Barrowmore," June 18, 1900), against the reliquidation, directed by the Secretary of the Treasury, of an entry covering certain gunnies invoiced in rupees, at a different rate than that proclaimed by him for the quarter during which the invoice was consulated.

The gunnies above mentioned were imported into this port per "Barrowmore," which arrived here from Liverpool, England, on June 18, 1900, and they were entered for consumption on the same day (E. No.

3728). The liquidation of May 29, 1901, was made in pursuance of instructions contained in Department Circular No. 61 (T. D. 23059, May 18, 1901). On June 6th, 1901, the Secretary of the Treasury ordered the reliquidation of the entry at the value of 32 cents per rupee under the provisions of sec. 25 of the act of August 28, 1894. (See copy of the Secretary's instruction attached to the papers.) Against this reliquidation the importers have filed the protest which is herewith submitted for your action.

The requirements of sec. 14, act of June 10, 1890, have been complied with by the protesters.

Respectfully, yours,

WM. F. STONE, *Collector.*
W. L. P.

I hereby concur in the above.

JOHN W. CABLE, *N. O.*

Enclosure—One (1) set.

7 (Endorsed:) Received by Board of U. S. General Appraisers Jul. 30, 1901.

EXHIBIT B.

BALTIMORE, *June 18, 1901.*

HON. COLLECTOR OF CUSTOMS, *Port of Baltimore.*

SIR: Notice of dissatisfaction is hereby given with, and protest is hereby made against, your ascertainment, and liquidation of dut'es, and your decision assessing duty, on the entries below named. The reasons for objection are as follows:

You have, by liquidation or reliquidation, assessed duty on the basis in United States money of an assumed value of the invoice coin or currency greater than its actual value or proclaimed value and greater than that permitted or authorized by law. Duty should be assessed on the basis of the value of said coin or currency estimated by the Director of the Mint and proclaimed by the Secretary of the Treasury on the first day of the quarter year during which the goods were exported to the United States. The Secretary of the Treasury has not ordered the liquidation or reliquidation of said entries at a different value from that which is herein claimed, or, if so, such order is illegal, void, and of no effect. No evidence, or no satisfactory evidence, was produced to said secretary to bring these cases within the proviso of sec. 25, tariff act of August 27, 1894, and they are not within it. The body of said section should govern your action in this matter.

The offer is hereby made to furnish evidence to the Board of United States General Appraisers, on reasonable notice from them, of the facts involved, and in support of the contentions herein.

The excess is paid under compulsion, to obtain and retain possession of the merchandise or articles, and you and the Government are held liable for the same, and a demand for the repayment thereof and a readjustment or liquidation of the entries in accordance with the above claims is hereby made. The marks and numbers below given are given under duress and without prejudice.

8

| Entry No. | Vessel. | Entered. | Bond No. | Reliquidated. | Marks and Nos. | |
|---|---|---|---|---|---|---|
| 3728. | Barrowmore. | June 18, 1900. | C. | June 12, '01. | W. W. H. 251-75 | and various as per entries and invoices. |

Respectfully, *49779-B.*

WHITRIDGE, WHITE & CO.,
By COMSTOCK & BROWN, *Attorneys,*
*Attorneys and Counsellors at Law,*
*56 Pine street, New York City.*

No. 1321.

CUSTOM-HOUSE, BALTIMORE, MD.,
*Collector's Office, Liquidating Dept.*

Received June 18, 1901.

W. L. P., *For Collector.*

No. 1321.

(Endorsed:) Custom-house, Baltimore, Md. Collector's office, li uidating dept. Received June 18, 1901. W. L. P., for collector.

Protest:
Whitridge, White & Co.
Value of rupee.
Reliquidation directed by Secretary of the Treasury.
Entry No. 3728.
"Barrowmore."
Passed June 18, 1900.
Reliquidated June 12, 1901.
Paid July 27th, 1901.
Protested June 18, 1901.

9 EXHIBIT C.

J.

Division of Customs.
2264-H.

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
*Washington, June 6, 1901.*

(Copy.)

G. M. C. R./S. C.

The COLLECTOR OF CUSTOMS,
*Baltimore, Md.*

SIR: The Department is in receipt of your letter of the 29th ultimo, submitting the following described entries, covering merchandise imported from India and invoiced in rupees, liquidated on the basis of the value of the rupee as estimated by the Director of the Mint and proclaimed by the Secretary of the Treasury for the respective quarters during which the invoices were consulated, pursuant to the instructions contained in Department's Circular No. 61 of May 18, 1901 (T. D. 23059), viz:

| Entry. | Importer. |
|---|---|
| 3087 | Frank H. Shallus. |
| 3728 | Whitridge, White & Co. |
| 4022 | William H. Masson. |
| 4902 | " |
| 5148 | Whitridge, White & Co. |
| 5469 | " |
| 5524 | William H. Masson. |
| 5568 | " |
| 5828 | Whitridge, White & Co. |
| 6051 | William H. Masson. |

In this regard I have to inform you that satisfactory evidence has been produced to the Secretary of the Treasury showing that the value in United States currency of the foreign money of the invoices, namely, the rupee of India, was $.32 at the date of certification, which is ten per centum more than the value proclaimed during the quarter in which the consular certification occurred.

In view of the fact stated, you are hereby directed to reliquidate the entries hereinbefore mentioned on the basis of this latter value, under the authority conferred upon the Secretary of the Treasury by the proviso to section 25 of the act of August 28, 1894.

The entries and other papers submitted are herewith returned.

Respectfully,

(S'g'd.) O. L. SPAULDING,
*Assistant Secretary.*

22 enclosures. AJ. 49779-B.

EXHIBIT D.

Before the Board of Classification of U. S. General Appraisers.

No. 49779-B.

In the matter of the protest of Whitridge, White & Company, on 25 bales of burlaps.

Counsel for the Government objects to the agreement in protest 49782-B., of Lucius Beebe & Sons, being made a part of the record in the case, on the ground that the same is incompetent, immaterial, and irrelevant, and on the ground that the admission of the said agreement calls for the conclusion, which is not supported by any satisfactory evidence; that the evidence produced to the Secretary of the Treasury in the Beebe case governed his action in ordering the reliquidation of the entry in this case.

ALBERT H. WASHBURN,
*Counsel for Treasury Department.*

NEW YORK, *March 5, 1902.*

11 EXHIBIT E.

Before the Board of U. S. General Appraisers.

In the matter of the protest of Whitridge, White & Co., 49779–B.

NEW YORK, *March 25th, 1902.*

Before General Appraiser Somerville.

Appearances: Albert H. Washburn, esq., counsel for the Treasury Department; John F. Strauss (of Comstock & Brown), counsel for the importers; Chas. F. Kurz, stenographer.

MORTIMER CLARENCE MACK, called as a witness on behalf of the importers, having been duly sworn, testified as follows:

By Mr. STRAUSS:

Q. What is your business?

A. I am with the American Smelting & Refining Company, silver refiners.

Q. For how long have you been engaged in that business?

A. Seven years July 1, 1902.

Q. Continuously with the American Smelting & Refining Company?

A. Practically. The firm is a consolidation of the old firm of M. Guggenheim & Sons with other smelters. The consolidation took effect here last April.

Q. What has been the nature of your employment with that company?

In the financial department of the business.

Q. What is the business of that company?

A. The business of the company is the smelting and refining of ores.

Q. Does that include silver ores?

A. Silver and lead ores principally, and also copper ores.

Q. Is the business of that corporation a large one?

A. Practically a monopoly of the entire business of this country. There are two or three small independent concerns in this country.

Q. In the course of your connection with that company has it become part of your duty to acquaint yourself with the metal price both here, in New York and in London of bar silver?

A. It certainly has. I have made that quite a study since I have been with the company.

Q. Have you kept a record of the daily quotations of those prices in those markets in the past few years?

A. Well, for the last three years anyway.

12 Q. Can you, by reference to those records, state to the board what was the market price of silver on the 19th of April, 1900?

A.

(Counsel for the Government objects to such evidence on the ground that the same is incompetent, immaterial and irrelevant; on the ground that the order of the Secretary of the Treasury for the reliquidation of said entry at the value of the rupee therein stated is final, and is not subject to review by the Board of General Appraisers, or by any tribunal in these proceedings; on the ground that the said order is conclusive evidence that satisfactory evidence had been produced to the Secretary of the Treasury showing him that the value in United States currency of

the rupee specified in the invoice in question was, at the date of its certification, at least ten per centum more than the value proclaimed by said Secretary of the Treasury during the quarter in which said consular certification occurred; and on the ground that said order is conclusive evidence of the value of said rupee for the purpose of said reliquidation.

The objection is overruled and the testimony is admitted, but not for the purpose of contradicting the finding of the Director of the Mint as to the metal value of the rupee, as proclaimed by the Secretary of the Treasury. Exception.

And to each and every following question and answer counsel for the Government duly objected and excepted on the grounds stated above.)

A. Fifty-nine and one-half cents per ounce in New York.

Q. That is fine silver?

A. Yes, sir.

Q. Mr. Mack, I hand you a book called "Monetary Systems of the World. A Study of Present Currency Systems and Statistical Information Relative to the Volume of the World's Money, with Abstracts of Various Plans Proposed for the Solution of the Currency Problem in the United States," revised edition, by Maurice L. Muhleman, deputy assistant treasurer United States, New York, and published in 1897—and ask you whether you know that book as an authority in the financial market of this city?

A. Yes, sir; I do.

Q. Is it so recognized generally?

A. Any of Mr. Muhleman's works are recognized, because he got up all the statistical information for the Government for some time, especially on silver currency.

Q. You know who Mr. Muhleman was?

A. I know who he was, yes.

13 Q. Do you personally know him to have been the assistant U. S. treasurer at New York?

A. Yes, sir; I do.

Q. Now, turning to page 10 of that book, I call your attention to the statement headed "Table of the World's Money Units," and ask you to state what you find therein as to the weight and fineness of the rupee of India?

A. The weight of the rupee is 11.664 grammes.

Q. And what fineness of silver?

A. .916⅔.

Q. Will you please look at the note at the head of the table and state what Mr. Muhleman states in reference to the weight of grammes as expressed in grains?

A. The gramme is equal to 15.432 grains.

(Counsel for the importers offers in evidence the book and especially page 10, just referred to. Admitted and marked "Exhibit A, 49779-B, March 25, 1902.")

Q. Have you made a calculation based upon the weight of silver and its fineness as contained in that table and upon the weight of the gramme as expressed in grains as given in that table, and the value as based upon the value of pure silver in the markets of this country on April 19, 1900, as previously testified about?

A. I have the calculation right here.

Q. Will you state what value you found in reference to the pure silver contained in the rupee on that date expressed in U. S. currency?

A. .2045015 cents.

Mr. WASHBURN. For the reasons stated in my objections to the admission of this testimony, I decline to cross-examine the witness.

Mr. STRAUSS. I desire to offer in evidence a Government publication issued by the Bureau of Statistics, U. S. Treasury Department, entitled "Statistical Abstract of the United States for the year 1900," and especially page 45 thereof, as corroborative of the testimony of this witness, and call the attention of the board to the table headed "Annual Price of Silver in London per ounce, and Commercial Ratio of Silver to Gold, 1833 to 1900," and to the subdivision under "1900," showing the lowest and highest quotations of silver during that year, and the average quotation, expressed in pence, as corroborating the testimony of the witness and conducive to showing that the value as finally taken for the rupee upon the last reliquidation of this entry was at such a figure that it could not have been based upon the metal value.

14 Counsel for the Government objects to the admission of the book on the grounds already stated.

Objection overruled; exception.

The book is marked in evidence "Exhibit B, 49779-B, March 25, 1902."

Counsel for the importers refers the board to Treasury Decisions 21685, 22511, 18110, 18327, 23059, and to G. A. 5033.

## EXHIBIT F.

(23632-G. A. 5110.)

*Value of Indian rupee—Reliquidation under proviso to section 25, Act of 1894.*

Value of foreign coins: In reducing foreign standard coins to United States currency for the assessment of duties, the basis in all cases is the pure metal value of such coins, and not their exchange value. Newhall's case (91 Fed. Rep., 525), Beebe's case (103 Fed. Rep., 785, and 106 Fed. Rep., 75; 45 C. C. A., 230); In re Beebe (G. A. 5033) followed.

Order of the Secretary of the Treasury: This rule is binding upon all parties; and where the Secretary of the Treasury, under the proviso to section 25, tariff act of 1894, assumes to order the reliquidation of an entry upon the basis of the exchange value of the Indian rupee, instead of its metal value, the action of the collector in obedience to such order is reviewable by the Board of Classification and the courts, being based on an erroneous view of the law.—In re Beebe (G. A. 5033) followed.

Evidence: The evidence in this case, coupled with the declared practice of the Treasury Department, held sufficient to show that the order of the Secretary proceeded upon an erroneous construction of the law, in that it took the true value of the rupee to be its exchange value, and not its pure metal value.

Before the U. S General Appraisers at New York, March 29, 1902.

In the matter of the protest, 49779b-1321, of Whitridge, White & Co., against the decision of the collector of customs at Baltimore, Md., as to the rate and amount of duties chargeable on certain merchandise, imported per "Barrowmore," and entered June 18, 1900.

Opinion by SOMERVILLE, General Appraiser.

This protest covers an importation of gunny bagging, and the only question involving is the correctness of the action of the collector in reducing to United States currency the value of the Indian rupee, which is the currency in which the invoice is made out. The following facts (numbered from 1 to 15, inclusive) have been agreed upon by the counsel for the importers and the counsel for the Government, and we find them to be true.

1. That the importation consisted of 25 bales of gunny bagging, shipped to Baltimore, Md., from Calcutta, India.

That said merchandise was included in an invoice dated April 19, 1900, bearing consular number 1861, and showing a total value for said 25 bales of gunny bagging, together with certain nondutiable charges, of rupees 4556-14-3.

3. That said goods were entered in the port of Baltimore, for consumption, on the 18th day of June, 1900, by Whitridge, White & Co.

4. That after deducting from the invoice value the sum of rupees 157-6-9 for nondutiable charges and adding to this remainder, "to make market value," the sum of rupees 213-0-6, the entry is made out as follows: Rupees 4612-8-0.

5. That the invoice bears the following certificate of R. F. Patterson, consul-general of the United States at Calcutta, India, dated the 19th day of April, 1900:

I further certify that the exchange value of the rupee, in which currency the annexed invoice of merchandise is made out, is at this date 32 cents, estimated in United States gold dollars.

6. That the Secretary of the Treasury issued a circular (T. D. 22120), the material parts of which are as follows:

*Value of foreign coins.*

(Circular No. 39.)

TREASURY DEPARTMENT, BUREAU OF THE MINT,
*Washington, D. C., April 1, 1900.*

SIR: In pursuance of the provision of section 25 of the act of August 28, 1894, I present in the following table an estimate of the values of the standard coins of the nations of the world:

(Appended hereto is the following footnote:)

"The coins of silver-standard countries are valued by their pure silver contents, at the average market price of silver for the three months preceding the date of this circular."

16 *Value of foreign coins.*

| Country. | Standard. | Monetary unit. | Value in terms of U. S. gold dollar. | Coins. |
|---|---|---|---|---|
| * * | * * | * * | * * | * * |
| India..... | Silver..... | Rupee..... | $0.207 | Gold: mohur ($7.105). Silver: rupee and divisions. |

(Appended to the estimate is the following footnote:)

"Value of the rupee to be determined by consular certificate."

Respectfully,

GEO. E. ROBERTS,
*Director of the Mint.*

Hon. L. J. GAGE,
*Secretary of the Treasury.*

TREASURY DEPARTMENT, *April 1, 1900.*

The foregoing estimate by the Director of the Mint of the values of foreign coins I hereby proclaim to be the values of such coins, in terms of the money of account of the United States, to be followed in estimating the value of all foreign merchandise exported to the United States on or after April 1, 1900, expressed in any of such metallic currencies.

L. J. GAGE,
*Secretary of the Treasury.*

7. That on July 11, 1900, the collector at the port of Baltimore liquidated the duty on said goods by converting into United States gold dollars the rupees of said invoice at the rate of 32 cents for each rupee.

8. That protest, in writing, was duly lodged on July 16, 1900, with the collector of customs at Baltimore.

9. That on May 29, 1901, the collector at the port of Baltimore, acting under instructions from the Acting Secretary of the Treasury, as promulgated in Treasury decision 23059, reliquidated the duty
17 on said goods by converting into United States gold dollars the rupees of said invoice at the rate of 20.7 cents for each rupee.

10. That the said rate of 20.7 cents for each rupee was based upon the metal value of the rupee as proclaimed by the Secretary of the Treasury for the quarter beginning April 1, 1900 (T. D. 22120).

11. That thereafter the collector at the port of Baltimore transmitted to the Secretary of the Treasury, in accordance with the instructions contained in Treasury decision 23059, the said entry and invoice.

12. That under date of June 6, 1901, the Treasury Department returned the said papers to the collector at Baltimore, with a letter, the material parts of which are as follows:

In this regard, I have to inform you that satisfactory evidence has been produced to the Secretary of the Treasury showing that the value in United States currency of the foreign money of the invoices—namely, the rupee of India—was 32 cents at the date of certification, which is 10 per cent more than the value proclaimed during the quarter in which the consular certification occurred.

In view of the facts stated, you are hereby directed to reliquidate the entries hereinbefore mentioned on the basis of this latter value under the

authority conferred upon the Secretary of the Treasury by the proviso to section 25 of the act of August 28, 1894.

The entries and other papers submitted are herewith returned.

Respectfully,

O. L. SPAULDING,
*Assistant Secretary.*

13. That on June 12, 1901, the collector at the port of Baltimore, in accordance with the instruction of the Assistant Secretary of the Treasury, as formulated in the aforesaid letter of June 6, 1901, reliquidated the duty on said goods by converting into United States gold dollars the rupees of said invoice at the rate of 32 cents for each rupee.

14. That against the reliquidation of June 12, 1901, the importers seasonably filed a protest in writing with the collector at the port of Baltimore, which protest is the basis of this proceeding.

15. That the goods imported in this case are dutiable at five-eight's of a cent a pound upon the weight as taken in the reliquidation of
18 June 12, 1901, and in addition thereto at the rate of 15 per cent of their dutiable value, but no question is raised, but that the entry sets forth correctly in rupees the dutiable value of said goods.

In addition to the above, we further find from the record and from the testimony introduced at the hearing, that the following facts are true:

16. The rate of 32 cents for each rupee, which the collector adopted as his basis of action in the reliquidation of June 12, 1901 (against which reliquidation the present protest was lodged), was the exchange value of the rupee at the date of the certification of the invoice, as shown and attested by the certificate of the United States consul-general at Calcutta.

17. That the metal value of the rupee on April 19, 1900 (the date of certification), was substantially 20.7 cents, and at no time between the 1st of April, 1900, and the 19th of April, 1900, did the metal value of the rupee even approximate to 32 cents.

18. That the rupee referred to herein and in the invoice, being also the rupee named in the quarterly Treasury proclamation of value, is a silver coin and in current in India as such.

19. That the rupee of India contains 11.664 grams of silver .916⅔ fine.

20. That the gram is equal to 15.432 grains.

21. That on April 19, 1900, the market value of bar silver was 59.5 cents per ounce of 480 grains.

22. That the metal value of the rupee on April 19, 1900, was not at least 10 per cent more or less than the value proclaimed during the quarter in which the consular certification occurred.

From the above findings of fact, it is evident that in the order of the Secretary of the Treasury referred to in our twelfth finding, directing the collector at Baltimore to reliquidate the entry on the basis of 32 cents for each rupee, the exchange value of the rupee was adopted as the true value, and not "the value of the pure metal of such coin," as required by section 25 of the tariff act of August 28, 1894, from the proviso to which the Secretary derives his power to order the reliquidation that was made. But the word "value" as used in that proviso has been construed

to mean "the value of the pure metal," just as in the body of the section. (United States v. Newhall & Co., 91 Fed. Rep., 525, decided by Judge Colt, January 7, 1899, affirming an unreported decision of this board; United States v. Bebee, 106 Fed. Rep., 75, 45 C. C. A., 230, affirming United States v. Beebe, 103 Fed. Rep., 785, and In re Beebe, G. A. 4498; see also In re Beebe, G. A. 5033.)

19 Not only does this conclusion necessarily follow from a careful examination of the record and evidence in the case, but it is manifest from various publications of the Treasury Department that for some time past it has been their practice to require collectors to reduce the Indian rupee to United States currency upon the basis of the exchange, rather than the pure metal value of that coin. In Treasury decision 18110, bearing date June 16, 1897, the Assistant Secretary of the Treasury wrote to the collector at Boston as follows:

"As the actual value of the rupee is shown to have been, at the time of shipment, greater by more than 10 per cent than the proclaimed value, and as the evidence of such actual value contained in the certification of the United States consular officer on the invoice submitted with the protests is satisfactory to the Department, your action in liquidating said entries at the value stated by that officer is hereby approved under the authority of section 25 of the act of August 28, 1894."

On September 4, 1897, in Treasury decision 18327, the Assistant Secretary issued the following statement:

"So long as the actual exchange value of the rupee of India exceeds by more than 10 per cent the value proclaimed according to the quarterly estimates of the Director of the Mint, such actual value (and not the proclaimed value) will be taken in accordance with the provisions of section 25 of the act of August 28, 1894, as a basis for the computation of duties on merchandise invoiced as rupees."

In Treasury decision 21685, dated October 20, 1899, Assistant Secretary Spaulding, speaking of the rupee of Zanzibar, says:

"It is accepted generally, and follows in the rate of exchange the rupee of Bombay. * * * You are therefore authorized to estimate the value of the rupee of Zanzibar on the basis of the value shown by the consular certificates attached to the invoice covering contemporaneous shipments from India."

In Treasury decision 22511, under date of September 26, 1900, Assistant Secretary Spaulding instructed collectors in regard to the Indian rupee as follows:

"If such proclaimed value is less than that shown by the con-
20 sular certificates accompanying invoices, you will report the fact immediately to this Department, so that are liquidation, should one be deemed necessary, may be ordered, and the collection of the increased duties chargeable on such importations secured."

Note, also, Treasury decision 23059.

This series of letters and circulars is important as showing the practice of the Treasury Department in this matter of the value of the Indian rupee, and is corroborative of what has been said above. We are entirely satisfied, therefore, that the order of the Secretary of the Treasury was based on an erroneous construction of the law, in that he assumed that the proviso to said section 25 of the act of August 28, 1894, authorized him to adopt the exchange value of the rupee, rather than its pure metal

value, whenever there was a difference between the two of at least 10 per cent. For the reasons fully discussed by us in our decision, In re Beebe (G. A. 5033, of November 26, 1901, now on appeal before the circuit court at Boston), we are clearly of the opinion that the reliquidation of the entry in this case, made pursuant to the Secretary's order, was illega and unauthorized, and that the jurisdiction of this Board extends to correct it, and to order a reliquidation upon the value of the rupee as estimated by the Director of the Mint and proclaimed by the Secretary of the Treasury.

It is not improper to add that, since the issuance of our decision In re Beebe (G. A. 5033), in which we referred to the case of In re Downs (G. A. 4912) as bearing on the question of the jurisdiction of this Board to determine whether the Secretary of the Treasury had adopted a true construction of the law, our decision in the Downs case has been affirmed by the circuit court of appeals for the fourth circuit in Downs v. United States (113 Fed. Rep., 144), the court holding that the Secretary's decision in a case of such a character is reviewable by the Board of Classification and the Federal courts.

The protest is sustained and the decision of the collector reversed, with instruction to reliquidate the entry accordingly.

(Sd.) H. M. SOMERVILLE,
I. F. FISCHER,
W. B. HOWELL,
*Board of Classification of U. S. Gen. Appraisers.*

And for a certified statement of the facts involved in said matter,
21 as ascertained by them, the said Board states that said facts are fully set forth in the decision aforementioned, and that no other facts were ascertained by said Board than such as are shown by said decision and other exhibits hereto attached.

H. M. SOMERVILLE,
I. F. FISCHER,
W. B. HOWELL,
*Board of U. S. General Appraisers.*

*Order of reference.*

Filed 2nd June, 1902.

At a stated term of the circuit court of the United States in and for the district of Maryland, held in the United States court-house, in the city of Baltimore, on the 2nd day of June, 1902.

Present: Hon. Thomas J. Morris, U. S. Judge.

WILLIAM F. STONE, COLLECTOR OF CUSTOMS, district of Baltimore, Md., appellant,
*vs.*
MORRIS WHITRIDGE & RICHARD J. WHITE, trading as Whitridge, White & Co., appellees.
} Suit No. 1528.

Upon the application of the above-mentioned importers, by their attorney, Albert Comstock, esq., it is ordered, that this action be referred

to Marion De Vries, esq., one of the general appraisers as an officer of the court, to take and return to the court such further evidence herein as may be offered by any of the persons or parties in interest within sixty days after the date of the order.

THOS. J. MORRIS,
*U. S. Judge.*

JUNE 2ND, 1902.

22 *Decree.*

Filed 26th September, 1903.

At a stated term of the circuit court of the United States, in and for the district of Maryland, held in the United States court-house, in the city of Baltimore, on the 26th day of September, 1903.

Present: Hon. Thomas J. Morris, U. S. Judge.

WILLIAM F. STONE, COLLECTOR OF CUSTOMS, district of Baltimore, Maryland, appellant,
*vs.*
MORRIS WHITRIDGE AND RICHARD J. WHITE, trading as Whitridge, White & Co., appellees.
} Suit No. 1528.

The above cause coming on for hearing and determination before this court, on the application of the above-named appellant for a review of the questions of law and fact involved in the decision of the Board of United States General Appraisers herein, on the return of the said Board of the record and evidence taken by them, with their certified statement of the facts involved therein, together with their decision thereon.

Now, after hearing John C. Rose, esq., United States attorney, on behalf of the appellant, and Albert Comstock, esq., of counsel for the appellees, it is ordered, adjudged, and decreed that there was no error in the proceedings before the Board of General Appraisers, and that their decision herein be, and the same is hereby, affirmed.

THOS. J. MORRIS,
*U. S. Judge.*

23 *Petition of William F. Stone, collector, for an appeal, assignment of errors, and order of court allowing an appeal.*

Filed 13 October, 1903.

In the circuit court of the United States for the district of Maryland.

WILLIAM F. STONE, COLLECTOR OF CUSTOMS, district of Baltimore, Maryland,
*vs.*
MORRIS WHITRIDGE AND RICHARD J. WHITE, trading as Whitridge, White & Company.

*To the honorable the judges of said court:*

The petition of William F. Stone, collector of customs of the port of Baltimore, prays that the petitioner may be allowed to appeal to the

United States circuit court of appeals for the fourth circuit from the decree passed, and the judgment entered in pursuance thereof, in this case on the twenty-sixth day of September, 1903, that a proper citation may be issued and served upon the said Morris Whitridge and Richard J. White, copartners, trading as Whitridge, White and Company, of Baltimore, or their attorney, and that the record of said decree and judgment, and all papers relating thereto shall be transmitted to the said United States circuit court of appeals for the fourth circuit, in order that said decree may be reviewed and revised by the said United States circuit court of appeals.

And the petitioner files herewith the following:

ASSIGNMENT OF ERRORS.

Which he asserts exist in said decree and judgment, and which are intended to be urged in said United States circuit court of appeals.

The appellant will contend that the court below erred as follows:

1. In affirming the decision of the Board of General Appraisers.

2. In not decreeing that the reliquidation ordered by the Secretary of the Treasury under date of June 6th, 1901, and made by the collector, in pursuance of such order, on June 12th, 1901, which was within
24 one year from the date of the entry, was made in strict conformity with the provisions of the proviso to section 25 of the act of August 28th, 1894.

3. In not decreeing that said reliquidation of June 12th, 1901, having been ordered by the Secretary of the Treasury, acting under the authority conferred by the proviso to section 25 of the act of August 28th, 1894, no decision of the collector as to the rate and amount of duties is involved, and, therefore, that this case does not fall within the jurisdiction of the Board of United States General Appraisers.

4. In decreeing that the word "value" as used in the proviso to section 25 of the act of August 28th, 1894, should be construed as meaning "the value of the pure metal" just as in the body of said section, and is not decreeing that the words "value in United States currency," in the above mentioned proviso, mean the actual commercial or exchange value of the foreign coin at the time of the exportation of the merchandise to the United States.

P. C. KNOX,
*Attorney-General of the United States.*
By JOHN C. ROSE,
*United States Attorney for the District of Maryland.*

Let the appeal be allowed as prayed and citation issue.

THOS. J. MORRIS, *Judge.*

*Citation.*

UNITED STATES OF AMERICA, *ss:*

*The President of the United States, to Morris Whitridge and Richard J. White, trading as Whitridge, White & Co., greeting:*

You are hereby cited and admonished to be and appear at a United States circuit court of appeals for the fourth circuit, to be holden at Richmond on the 10th day of November next, pursuant to an appeal

from a decree of the circuit court of the United States for the district of Maryland, in your favor passed in a cause in said court wherein William F. Stone, collector of customs for the district and port of Baltimore, Maryland, is appellant and plaintiff, and you are appellees and defendants, to show cause, if any there be, why the decree rendered against the said appellant and plaintiff in said cause mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

25 Witness, the Honorable Thomas J. Morris, judge of the said circuit court of the United States, this thirteenth day of October, in the year of our Lord one thousand nine hundred and three.

THOS. J. MORRIS, *Judge.*

Service of the within citation acknowledged this 14th day of October, 1903.

ALBERT COMSTOCK,
*Attorney for Whitridge, White & Co.*

*Order to transmit record.*

And thereupon it is ordered by the court here that a transcript of the record and proceedings of the cause aforesaid, together with all things thereunto relating, be transmitted to the said United States circuit court of appeals for the fourth circuit, and the same is transmitted accordingly.

Test:

JAS. W. CHEW, *Clerk.*

*Clerk's certificate.*

UNITED STATES OF AMERICA,
*District of Maryland, to wit:*

I, James W. Chew, clerk of the circuit court of the United States for the district of Maryland, do hereby certify that the foregoing is true transcript of the record and proceedings of the said circuit court, together with all things thereunto relating, in the therein entitled cause.

In testimony whereof I hereunto set my hand and affix the seal of said circuit court this 16th day of October, 1903.

[SEAL.] JAS. W. CHEW, *Clerk.*

26

27 *Proceedings in the United States circuit court of appeals for the fourth circuit.*

WILLIAM F. STONE, COLLECTOR OF CUSTOMS, Baltimore, appellant,
*versus*
WHITRIDGE, WHITE AND COMPANY, APPELLEE. } No. 518.

Appeal from the circuit court of the United States for the district of Maryland, at Baltimore.

Octo. 27, 1903, transcript of the record is filed and the cause is docketed.

Same day, appearance of John C. Rose, United attorney for the appellant; order filed.

Same day, appearance of Albert Comstock and William R. Sears for the appellee; order filed.

Nov. 21, 1903, the cause is continued.

Feb. 5, 1904 (February term, 1904), cause came on to be heard and is argued by counsel before Judges Simonton, Boyd, and Keller and submitted.

March 14, 1904 (same term), the court announced and *and* filed its opinion, which is as follows, to wit:

28

29 *Opinion.*

Filed March 14, 1904.

United States circuit court of appeals, fourth circuit. February term, 1904.

WILLIAM F. STONE, COLLECTOR, APPELLANT,
*vs.*
WHITRIDGE, WHITE & CO., APPELLEES. } No. 518.

Appeal from the circuit court of the United States for the district of Maryland.

Argued Feb. 5, 1904. Decided March 14, 1904.

Before Simonton, circuit judge, and Boyd and Keller, district judges.

John C. Rose, U. S. attorney (Morris A. Sofer, assistant U. S. attorney, on briefs), for appellant, and Albert Comstock and William R. Sears for appellees.

BOYD, district judge:

The facts in this case are substantially as follows: Stone, the appellant, is collector of customs for the district and port of Baltimore, Md. In June, 1900, Whitridge, White & Co., the appellees, imported from India into the port of Baltimore a cargo of gunny bagging. The gunnies were purchased by the importers at Calcutta, and were invoiced in rupees, which is a silver coin of India. The "Barrowmore," in which the gunnies were brought into this country, arrived in Baltimore on the 18th of June, 1900, and the goods were entered for consumption on that day. On the 11th of July, 1900, the collector at Baltimore liqui-
30 dated the duty on the said goods, by converting into United States gold dollars the rupees of the invoices at the rate of 32 cents for each rupee. To this liquidation the importers entered a protest, in writing, on the 16th day of July, 1900, and on the 29th of May, 1901, the collector, acting under instructions from the Secretary of the Treasury, reliquidated the duty on said goods by converting into United States gold dollars the rupees of the invoices at the rate of 20.7 cents for each rupee. That thereafter, on the 12th day of June, 1901, the collector again reliquidated the invoices, and placed the value of the rupee at 32 cents. This last action of the collector was in response to instructions from the Secretary of the Treasury, relative to these invoices, as follows:

"In this regard I have to inform you that satisfactory evidence has been produced to the Secretary of the Treasury showing that the value in

United States currency of the foreign money of the invoices, namely, the rupee of India, was 32 cents at the date of certification, which is ten per cent more than the value proclaimed during the quarter in which the consular certification occurred. In view of the fact stated, you are hereby directed to reliquidate the entries hereinbefore mentioned, on the basis of this latter value, under the authority conferred upon the Secretary of the Treasury by the proviso to section 25 of the act of August 28th, 1894."

To this reliquidation the appellees duly filed a protest, in writing, with the collector at Baltimore. The goods imported are dutiable at five-eighths of a cent a pound upon the weight as taken in the reliquidation of June 12, 1901, and in addition thereto at the rate of 15 per cent of their dutiable value. It is admitted that the metallic value of the rupee on April 19, 1900, the date on which the invoices in this case were certified, was substantially 20.7 cents, and at no time between the 1st of April, 1900, and the 1st of July, 1900, did the metallic value of the rupee even approximate 32 cents. It is further admitted that the reliquidation made by the collector on the 12th of June, 1901, to which the importers objected, and which is the basis of this proceeding, in which the Indian rupee was valued at 32 cents, was the exchange value of the rupee at the date of the certification of the invoices, as shown and attested by the certificate of the United States consul-general at Calcutta.

On the first of April, 1900, acting under the authority of law,
31 the Director of the Mint had estimated the metallic value of an Indian rupee to be 20.7 cents, and this valuation was duly proclaimed by the Secretary of the Treasury. The action of the Secretary of the Treasury, in directing a reliquidation of the invoices upon which the present controversy arises, was based upon an opinion of the Secretary that, after the estimate of the Director of the Mint, and the proclamation thereon, the value of the Indian rupee during the quarter had varied as much as 10 per cent; that its value had appreciated this much, or more, and that the invoices of the gunnies, imported by the appellees, should be reliquidated for duty at the exchange, or commercial value of the Indian rupee, which was certified by the consul, and not at the metallic value, which had been estimated by the Director of the Mint. As before stated, against the reliquidation of June 12, 1901, made by the collector of Baltimore, under the instructions of the Treasury Department, the appellees protested, and this protest, with the facts in the case, was submitted by the collector to the Board of General Appraisers at New York. This board rendered a decision adverse to the collector, declaring, in effect, that the metallic, and not the commercial, value of the Indian rupee, at the time of the invoices, was the true basis of liquidation. From this decision the case was brought, by petition on behalf of the collector, to the circuit court for the district of Maryland; the circuit court affirmed the decision of the Board of General Appraisers, and the collector appealed to this court.

The appellant lays down two propositions—namely, that the liquidation of June 12th, 1901, was the decision of the Secretary of the Treasury and was final, and that the Board of General Appraisers had no jurisdiction to review it. The question here is, therefore, can these positions, or either of them, be maintained. We think not. The customs administrative act of June 10, 1890, section 14, plainly provides that,

when the collector of customs has liquidated the invoices for duty, the owner or importer may, after such liquidation, give notice in writing to the collector of his objections thereto, and if the merchandise is entered for consumption shall pay the full amount of the duties and charges ascertained to be due thereon; and upon such notice and payment, the collector shall transmit the invoice, and all the papers and exhibits connected therewith, to the Board of three General Appraisers, which shall be on duty at the port of New York, etc., which board shall exam-
32 ine and decide the case thus submitted, and their decision, or that of a majority of them, shall be final and conclusive upon all persons interested therein. . . . Section 15 of said act provides for an appeal from a decision of the Board of General Appraisers, to the circuit court of the United States, on behalf of either party.

The appellant contends that the action submitted to the Board of General Appraisers was not that of the collector of customs at Baltimore, but was a decision of the Secretary of the Treasury, made in the discharge of the duties imposed upon him by law, and that the Board of General Appraisers has no authority in law to review him. It is insisted, on the part of the appellant, that Congress could not have intended to submit the decision of the Secretary of the Treasuary upon matters in which the statute imposes upon him the responsibility of deciding, to review and possibly reversal, by subordinate divisions of his own department.

We can not agree that, in exercising the powers of review vested in the Board of General Appraisers by law, the board is a subordinate division of the Treasury Department. On the other hand, the members of the Board of General Appraisers are appointed by the President, by and with the advice and consent of the Senate, and, acting within its jurisdiction, the board is an independent tribunal, empowered by law to pass upon certain controversies between the Government and the importer, and in this respect, the board is no more subordinate to the Treasury Department than is any other court.

As bearing upon this view, we may refer to the fact that, by section 15 of the admistrative customs act, it is provided, among other things, that, if the Secretary of the Treasury is dissatisfied with the action of the board, his only relief is by appeal to the circuit court of the United States. It may be well, at this juncture, to give the full text of section 25 of the act of Congress of August 28th, 1894, upon the construction of which the questions involved in this case depend. That section reads as follows:

"That the value of foreign coin, as expressed in the money of account of the United States, shall be that of the pure metal of such coin of standard value, and the values of the standard coins in circulation of the various nations of the world, shall be estimated quarterly by the
33 Director of the Mint, and be proclaimed by the Secretary of the Treasury immediately after the passage of this act, and thereafter quarterly on the first day of January, April, July, and October, in each year, and the values so proclaimed shall be followed in estimating the value of all foreign merchandise exported to the United States during the quarter for which the value is proclaimed, and the date of the consular certification of any invoice shall, for the purposes of this section, be considered the date of exportation: provided, that the Secretary of

the Treasury may order the liquidation of any entry at a different value whenever satisfactory evidence shall be produced to him showing that the value in United States currency of the foreign money specified in the invoice was, at the date of certification, at least ten per centum more or less than the value proclaimed during the quarter in which the consular certification occurred."

In disposing of the questions presented, and especially that in which it is insisted by the appellant that the reliquidation of June 12, 1901, was a decision of the Secretary of the Treasury, and therefore final, without power in the Board of General Appraisers or the courts to review it, it is perhaps as well to consider the reasons which must have led to the enactment of the law which we have just quoted, and by this method we may arrive at the true meaning of the legislation. We find that, for many years, in the administration of our tariff laws, great difficulties had been encountered in so adjusting the value of goods purchased in foreign countries and invoiced in foreign money, as to be altogether fair, in every instance, to the Government and to the importer. Especially was this true of importations of goods which had been purchased in countries where silver coin was the standard money. This condition gave rise to disagreements between the Government and the importers, and often the aid of the courts was invoked to relieve the situation. The Congress, no doubt appreciating existing conditions, undertook to set the matter at rest by the act of March 3rd, 1873, chap. 268, 17 Stat., 602, by which it was enacted "That the value of foreign coin as expressed in the money of account of the United States shall be that of the pure metal of such coin of standard value, and the values of the standard coins in circulation of the various nations of the world shall be estimated annually by the Director of the Mint, and be proclaimed on the first day of January by the Secretary of the Treasury."

34 This act was plain, and there could be doubtful construction of its terms. It provided that the metallic value of foreign coin should be estimated annually by the Director of the Mint, and proclaimed on the first day of January by the Secretary of the Treasury. When so estimated and proclaimed the value of foreign coin for the purposes of liquidation of invoices of imported goods was settled, and had the force of a statute, which controlled the action of the collectors and other officers of the customs in determining import duties, and it was in view of this statute that the decisions in Hadden vs. Merritt, 115 U. S., 25, and The United States vs. Klingenberg, 153 U. S. 93, were made, as was also the decision in Cramer vs. Arthur, 102 U. S., 612, that the valuations of foreign standard coins made by the Director of the Mint, and proclaimed by the Secretary of the Treasury, were conclusive and binding, both on collectors of customs and on importers, and that evidence to show that such valuations were inaccurate was not receivable. In the latter case the principle declared in Collector vs. Richards, 23 Wall., 246, was cited and reaffirmed.

These several decisions are upon the ground that the Director of the Mint, in basing his estimate upon the metallic value of foreign coin, had acted within the scope of the authority conferred upon him by the statute, and having so acted his finding of fact became the law as fully as if his estimate had been incorporated in the statute itself.

Section 25 of the act of August 28th, 1894, excepting the proviso, was a substantial re-enactment of the law of 1873, the only change being that the Director of the Mint should make his estimates of the value of foreign coin quarterly, instead of annually, as provided in the previous law. And then comes the proviso: "That the Secretary of the Treasury may order the liquidation of any entry at a different value, whenever satisfactory evidence shall be produced to him, showing that the value in United States currency of the foreign money specified in the invoice was, at the date of the certification, at least ten per centum more or less than the value proclaimed during the quarter in which the consular certification occurred."

That frequent fluctuations in the metallic value of foreign coins led to the act of 1904, would seem to be indisputable. The law as it stood since 1873 empowered the Director of the Mint to make his estimate of the metallic value of foreign coin on the first day of January, in each year, but Congress saw the necessity of having this estimate made quarterly instead of annually, but still adhered to the metallic value as the basis of the estimate. Then where can we find a reason to conclude that it was the intention of Congress to make a departure from the metallic principle which permeated its legislation and confer upon the Secretary of the Treasury an exclusive power to arbitrarily adopt another basis? Is it not more in accord with the language of the statute, the purposes for which it was enacted, the conditions it was intended to meet, and fair construction, to hold that the proviso was inserted in the act simply to authorize the Secretary of the Treasury in case there should be a variation in the metallic value of the foreign coin after the Director of the Mint had made his estimate at the first of the quarter, and before, by the terms of the law, he could make another estimate at the beginning of the next quarter to order liquidations when it was made satisfactorily to appear to him that such variations in the metallic value to the extent of ten percentum had taken place? If such is not the law then, under the proviso to section 25, the Secretary of the Treasury is absolutely unrestrained. He is neither limited by the metallic value nor by the exchange value of the foreign coin, but he may at his option prescribe any value for foreign coin and direct its use by officers of the customs in the invoicing of foreign goods for duty. And following out the contention of the appellant in this case the importer would have no remedy whatever, either through the Board of General Appraisers or the courts. Certainly Congress did not intend to confer such unbridled power upon the head of an Executive Department.

This question is admirably discussed in two very learned opinions recently delivered, the one in the circuit court of the United States for the district of Massachusetts in the case of The U. S. vs. Beebe, 117 Fed. Rep., 670, and the other in the same case in the circuit court of appeals for the first circuit, 122 Fed. Rep., 672. It is not necessary for us to go further than to cite the opinions in these two cases, which we think declare the law as it is and proceed upon a line of reasoning which leads irresistably to the conclusion that when the Secretary of the Treasury undertook to order a reliquidation of the foreign invoices for duty upon a basis other than the metallic value of the foreign coin in which such invoices were certified he went beyond his authority, and his act had no legal effect.

We then come to the consideration of the question as to whether
36 the decision of the Secretary of the Treasury and the subsequent action of the collector of customs thereunder can be reviewed by the Board of General Appraisers and by the courts. We can not put this question more forcibly than by quoting from the comprehensive opinion of Judge Colt in the Beebe case, 117 Fed., the following language:

"Can the Secretary choose any standard of value for the foreign coin he pleases, as, for example, the exchange value, and will such action be final, although it is outside of the authority and jurisdiction conferred upon him by the proviso? Can the Secretary first adopt an illegal standard of value and then make an order or finding based upon such illegal standard which can not be impeached? If the doctrine of conclusiveness goes to this extent, then the importer is no longer governed by the laws which Congress enacts, but by the Secretary's interpretation of them; and the result might be that under the form of reliquidation the pure metal rule of value in the assessment of duties, which has prevailed since the origin of the Government, may to a large extent be nullified."

It is conceded that if the ascertained metallic value of the silver rupee of India, either that made by the Director of the Mint at the first of the quarter and proclaimed by the Secretary or a metallic value determined by the Secretary under the proviso of section 25, had been adopted by the collector in making the reliquidation of invoices of the appellees' goods on the 12th of June, 1901, under the decisions before cited, such action by the collector would have been conclusive. But the collector did not do this; on the other hand, acting under instructions from the Secretary of the Treasury, he adopted as a basis of liquidation the commercial value of the rupee as certified by the American consul at Calcutta at the date of the invoices. The instruction was the act of the Secretary, but the liquidation ascertaining the dutiable value of the goods and determining the amount of duty to be paid by the importer was the act of the collector.

"The action of a collector in declining to accept the proclaimed value of a foreign standard coin and in adopting another standard, thereby increasing the amount of duty on imported merchandise, does not relate to a disputed appraisement, but to the amount of duties, and under the customs administrative act, June 10, 1890, sections 14–15, is reviewable on the protest of the importer by the Board of General
37 Appraisers and the circuit court." U. S. vs. J. Allston Newhall & Co., 91 Fed. Rep., 525.

In the present case the collector ignored the metallic value of the rupee, 20.7 cents, which had been proclaimed for the quarter in which the importation of the goods was made, and adopted the exchange value of 32 cents, which appeared from the certificate of the consul, and thus increased the amount of duty upon the importation. The principle declared in the Newhall case, which we hold to be the law, applies here, and, in our opinion, the Board of General Appraisers and the circuit court of the United States had jurisdiction.

As bearing upon this point, and in entire accord with the position we take, we quote again from the learned opinion of the circuit court of appeals for the first circuit, in the case of The United States vs. Beebe & Sons, 122 Fed. Rep., 762, in which Judge Putnam, in delivering the opinion of the court, says:

"The United States raises a question of the jurisdiction of the Board of General Appraisers. On that point we need add but very little to what was said in the circuit court. The act of June 10, 1890, chap. 407, 26 Stat., 131, is the law which established this tribunal. The United States rests on the words, 'decision of the collector,' found in section 14, and they claim that in the case at bar the 'decision' was not that of the collector of Boston, but of the Secretary of the Treasury. This is a narrow construction of the expression, because the ultimate tribunal which reliquidated was not the Secretary but the collector; so that, at common law, mandamus would lie only against the latter, and not against the former. This position, moreover, begs the question, because if the action of the Secretary was unlawful, as we hold it was, the collector could rest nothing done by him on that action, and whatever he did was his own."

The judgment of the circuit court is affirmed.

39 Same day, to wit, March 14, 1904, the court made and entered the following decree, to wit:

*Decree.*

Filed March 14, 1904.

United States circuit court of appeals, fourth circuit.

WILLIAM F. STONE, COLLECTOR OF customs, appellant,
*vs.*
WHITRIDGE, WHITE & COMPANY, appellees. } No. 518.

Appeal from the circuit court of the United States for the district of Maryland.

This cause came on to be heard on the transcript of the record from the circuit court of the United States for the district of Maryland, and was argued by counsel.

On consideration whereof it is now here ordered, adjudged, and decreed by this court that the decree of the said circuit court in this cause be, and the same is hereby, affirmed.

March 14, 1904.

CHARLES H. SIMONTON,
*Circuit Judge.*

41 And on another day, to wit, April 4, 1904, the mandate of this court is issued and transmitted to the said circuit court at Baltimore, Md., in due form.

*Clerk's certificate.*

UNITED STATES OF AMERICA,
*Fourth circuit, ss:*

I, Henry T. Meloney, clerk of the United States circuit court of appeals for the fourth circuit, do certify that the foregoing is a true copy

of the entire record and proceedings in the therein-entitled cause, as the same remains upon the records and files of the said circuit court of appeals.

In testimony whereof I hereto set my hand and affix the seal of the said United States circuit court of appeals for the fourth circuit this 30th day of April, A. D. 1904.

[SEAL.]

HENRY T. MELONEY,
*Clerk U. S. Circuit Court of Appeals, Fourth Circuit.*

43 United States circuit court of appeals, fourth circuit.

UNITED STATES OF AMERICA:

I, Henry T. Meloney, clerk of the United States circuit court of appeals for the fourth circuit, do make return of the annexed writ of certiorari issued out of the Supreme Court of the United States in the cause therein entitled on the 29th day of November, 1904, by annexing hereto a certified copy of the stipulation of the attorneys of record, that the certified copy of the transcript of the record now on file in the office of the clerk of the Supreme Court of the United States shall constitute the return of the clerk of the circuit court of appeals for the fourth circuit to the writ of certiorari issued herein.

In testimony whereof I hereto set my hand and affix the seal of the said circuit court of appeals, at Richmond, on this seventh day of January, A. D. 1905.

[SEAL.]

HENRY T. MELONEY,
*Clerk U. S. Circuit Court of Appeals, 4th Ct.*

44 Supreme Court of the United States, October term, 1904.

THE UNITED STATES, PETITIONER,
*v.*
WHITRIDGE, WHITE & COMPANY. } No. 413.

*Stipulation as to return to writ of certiorari.*

It is hereby stipulated by counsel for the parties to the above-entitled cause that the certified copy of the transcript of the record now on file in the office of the clerk of the Supreme Court of the United States shall constitute the return of the clerk of the circuit court of appeals for the fourth circuit to the writ of certiorari issued herein.

November 30, 1904.

H. M. HOYT,
*Solicitor-General.*
ALBERT COMSTOCK,
*Counsel for Respondents.*

UNITED STATES OF AMERICA, *ss:*

I, Henry T. Meloney, clerk of the United States circuit court of appeals for the fourth circuit, do certify that the above stipulation of counsel is a true copy of the original filed January 7, 1905, and now remaining among the records and proceedings in the therein entitled cause.

In testimony whereof I hereto set my hand and affix the seal of the said circuit court of appeals at Richmond, on this 7th day of January, A. D. 1905.

[SEAL.]

HENRY T. MELONEY,
*Clerk U. S. Circuit Court of Appeals, 4th Ct.*

45 UNITED STATES OF AMERICA, *ss:*

*The President of the United States of America to the honorable the judges of the United States circuit court of appeals for the fourth circuit, greeting:*

Being informed that there is now pending before you a suit in which William F. Stone, collector of customs for the district and port of Baltimore, Maryland, is appellant, and Morris Whitridge and Richard J. White, trading as Whitridge, White and Co., are appellees, which suit was removed into the said circuit court of appeals by virtue of an appeal from the circuit court of the United States for the district of Maryland, and we, being willing for certain reasons that the said cause and the record and proceedings therein should be certified by the said circuit court of appeals and removed into the Supreme Court of the

46 United States, do hereby command you that you send without delay to the said Supreme Court, as aforesaid, the record and proceedings in said cause, so that the said Supreme Court may act thereon as of right and according to law ought to be done.

Witness the honorable Melville W. Fuller, Chief Justice of the United States, the 29th day of November, in the year of our Lord one thousand nine hundred and four.

JAMES H. MCKENNEY,
*Clerk of the Supreme Court of the United States.*

47 (Indorsed:) File No. 19513. Supreme Court of the United States, No. 413, October term, 1904. The United States, petitioner, vs. Whitridge, White & Co. Writ of certiorari, and return. Filed January 9, 1905.

The execution of the within writ of certiorari appears from the schedules hereto annexed. Henry T. Meloney, clk. U. S. cir. court of appeals, Jan. 7, 1904.

48 In the Supreme Court of the United States, October term, 1904.

THE UNITED STATES, PETITIONER,
*vs.*
MORRIS WHITRIDGE AND RICHARD J. WHITE, trading as Whitridge, White & Co., respondents. } No. 413.

In the above-entitled cause it is hereby stipulated that the following may be printed and considered as part of the record herein, being evidence formally introduced and admitted of record in this cause at the hearing thereof before the board of general appraisers, also used at the hearing of the cause before the United States court of appeals, fourth circuit, and referred to as Exhibit A, testimony of Mack, C. C. A. record, page 13, to wit:

1. "Table of the World's Money Units," appearing at pages 10 and 11 of the book entitled "Monetary Systems of the World," by Maurice

L. Muhleman, deputy assistant treasurer, United States, New York, and published by The Money Publishing Company, 150 Nassau st., New York, 1897. The said table is as follows:

49 *Table of the world's money units.*

Weights are given in grammes, values in United States coin, fineness in thousandths.
The value of silver coins is based upon the coining value of an ounce of silver in the United States, $1.2929. The gramme is equal to 15.432 grains.

SINGLE-GOLD STANDARD COUNTRIES.

| Country. | Unit. | Value. | Weight. | Fineness. | Subsidiary silver coin. | | | |
|---|---|---|---|---|---|---|---|---|
| | | | | | Principal coin. | Weight. | Fineness. | Equivalent at coining rate. |
| Great Britain | Pound | $4.86½ | 7.988 | .916⅔ | Shilling | 5.655 | .925 | $0.21.7 |
| Germany | Mark | .23.8 | .398 | .900 | Mark | 5.555 | .900 | .20.8 |
| Sweden, Norway, Denmark | Krone | .26.8 | .448 | .900 | Krone | 7.5 | .800 | .24.9 |
| Austria-Hungary | Krone | .20.3 | .33⅞ | .900 | Krone | 5. | .835 | .17.4 |
| Roumania | Ley | .19.3 | .3226 | .900 | Ley | 5. | .835 | .17.4 |
| Turkey* | Piaster | .04.4 | .072 | .916⅔ | 5-piasters | 6.014 | .830 | .20.7 |
| Portugal* | Milreis | 1.08 | 1.774 | .916⅔ | Testoon | 2.5 | .916⅔ | .09.5 |
| Brazil* | Milreis | .54.6 | .8965 | .917 | Milreis | 12.75 | .917 | .48.6 |
| Chile | Peso | .54.9 | .365 | .916⅔ | Peso | 20. | .835 | .69.4 |
| Canada | Dollar | 1.00 | No gold coins. | | Half-dollar. | 11.62 | .925 | .44.6 |
| Newfoundland | Dollar | 1.01.4 | 1.664 | .916⅔ | Half-dollar. | 11.782 | .925 | .44.8 |
| Egypt | Pound | 4.94.3 | 8.5 | .875 | 5-piasters | 7. | .883⅓ | .24.3 |

* Depreciated paper has forced circulation; gold at a premium.
Australasia, Cape Colony, the British West Indies have the British standard, and in Canada the pound sterling is also a legal tender.

50 SINGLE-SILVER STANDARD COUNTRIES.

| Country. | Unit. | Equivalent at coining rate. | Weight. | Fineness. | Subsidiary pieces=to unit. | | Gold piece=to unit. | | |
|---|---|---|---|---|---|---|---|---|---|
| | | | | | Weight. | Fineness. | Weight. | Fineness. | Value. |
| Russia‡ | Rouble | $0.74.8 | 19.996 | .900 | 17.99 | .500 | 1.29 | .900 | $0.77.2 |
| Mexico | Peso | 1.01.6 | 27.073 | .902.7 | 27.073 | .902.7 | 1.692 | .875 | .98.4 |
| Central America | Peso | .93.5 | 25. | .900 | 25. | .835 | 1.613 | .900 | .96.5 |
| Colombia‡ | Peso | .93.5 | 25. | .900 | 25. | .835 | 1.613 | .900 | .96.5 |
| Bolivia | Boliviano. | .93.5 | 25. | .900 | 25. | .900 | 1.613 | .900 | .96.5 |
| Peru | Sol | .93.5 | 25. | .900 | 25. | .900 | 1.613 | .900 | .96.5 |
| Ecuador‡ | Sucre | .93.5 | 25. | .900 | 25. | .900 | 1.613 | .900 | .96.5 |
| India | Rupee | .44.4 | 11.664 | 916⅔ | 11.664 | .916⅔ | 11.664* | .916⅔ | .710.9 |
| Japan | Yen | 1.00.8 | 26.956 | .900 | 25. | .800 | 1.667 | .900 | .99.7 |
| China | Tael† | 1.36.4 | 36.56 | ..... | ..... | ..... | No coins. | | |
| Hongkong and Straits | Dollar | 1.00.8 | 26.956 | .900 | 25. | .800 | No coins. | | |
| Cochin China | Piaster | 1.01.8 | 27.215 | .900 | 27.215 | .900 | No coins. | | |

* Mohur=to 15 rupees.
† Shanghai tael. The new dollar coinage has not yet been rated.
‡ Depreciated paper has forced circulation; gold at a premium.

*Table of the world's money units*—Continued.

51 DOUBLE-STANDARD COUNTRIES.

| Country. | Unit. | Value. | Gold unit. | | Silver unit. | | Subsidiary coin. | | |
|---|---|---|---|---|---|---|---|---|---|
| | | | Weight. | Fineness. | Weight. | Fineness. | Weight. | Fineness. | Value. |
| United States | Dollar | $1.00 | 1.672 | .900 | 26.729 | .900 | 25. | .900 | $0.93.5 |
| Haiti | Gourde | .96.5 | 1.613 | .900 | 25. | .900 | 25. | .835 | .87.0 |
| Uruguay* | Peso | 1.03.4 | 1.697 | .917 | 25. | .900 | 25. | .900 | .93.5 |
| Argentine Republic* | Peso | .96.5 | 1.613 | .900 | 25. | .900 | 25. | .900 | .93.5 |
| Venezuela | Bolivar | .19.3 | .3226 | .900 | 5. | .900 | 5. | .835 | .17.4 |
| The Latin Union. France | Franc | .19.3 | .3226 | .900 | 5. | .900 | 5. | .835 | .17.4 |
| The Latin Union. Belgium | Franc | | | | | | | | |
| The Latin Union. Italy* | Lira | | | | | | | | |
| The Latin Union. Switzerland | Franc | | | | | | | | |
| The Latin Union. Greece* | Drachma | | | | | | | | |
| Spain* | Peseta | .19.3 | .3226 | .900 | 5. | .900 | 5. | .835 | .17.4 |
| Servia | Dinar | .19.3 | .3226 | .900 | 5. | .900 | 5. | .835 | .17.4 |
| Bulgaria | Lew | .19.3 | .3226 | .900 | 5. | .900 | 5. | .835 | .17.4 |
| Netherlands | Florin | .40.2 | .672 | .900 | 10. | .945 | 3.57 | .640 | .09.5 |
| Algeria | Franc | .19.3 | .3226 | .900 | 5. | .900 | 5. | .835 | 17.4 |
| Tunis | Franc | .19.3 | .3226 | .900 | 5. | .900 | 5. | .835 | .17.4 |
| Java, etc | Florin | .40.2 | .672 | .900 | 10. | .945 | 3.57 | .640 | .09.5 |
| Philippine Islands | Peso | .98.3 | 1.691 | .875 | 25.96 | .900 | 25.96 | .900 | .97.1 |
| Hawaii | Dollar | 1.00 | 1.672 | .900 | 26.729 | .900 | 25. | .900 | .93.5 |

*Depreciated paper has forced circulation; gold at a premium.

52 2. Table entitled "Annual price of silver in London, per ounce, and commercial ratio of silver to gold, 1833 to 1900," given on page 45 of the book entitled "Statistical Abstract of the United States, 1900," prepared by the Bureau of Statistics, under the direction of the Secretary of the Treasury, and printed at the Government Printing Office, Washington, D. C., 1901, referred to as Exhibit B, testimony of Mack, C. C. A., record, page 14. Said table is as follows:

No. 21.—*Annual price of silver in London, per ounce, and commercial ratio of silver to gold, 1833 to 1900.*

[From the Report of the Director of the Mint on the Production of Precious Metals in the United States.]

| Calendar year. | Lowest quotation. | Highest quotation. | Average quotation. | Value of a fine ounce at average quotation. | Commercial ratio. | Calendar year. | Lowest quotation. | Highest quotation. | Average quotation. | Value of a fine ounce at average quotation. | Commercial ratio. |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | *Pence.* | *Pence.* | *Pence.* | *Dollars.* | | | *Pence.* | *Pence.* | *Pence.* | *Dollars.* | |
| 1833 .... | 58⅜ | 59⅞ | 59 3/16 | 1.297 | 15.93 | 1867.... | 60⅜ | 61¼ | 60 5/16 | 1.328 | 15.57 |
| 1834 .... | 59⅛ | 60⅜ | 59 11/16 | 1.313 | 15.73 | 1868.... | 60½ | 61⅛ | 60⅛ | 1.326 | 15.59 |
| 1835 .... | 59½ | 60 | 59 11/16 | 1.308 | 15.80 | 1869.... | 60 | 61 | 60 7/16 | 1.325 | 15.60 |
| 1836 .... | 59⅛ | 60⅜ | 60 | 1.315 | 15.72 | 1870.... | 60⅛ | 60⅞ | 60 3/16 | 1.328 | 15.57 |
| 1837 .... | 59 | 60⅛ | 59 13/16 | 1.305 | 15.83 | 1871.... | 60 3/16 | 61 | 60⅛ | 1.326 | 15.57 |
| 1838 .... | 59⅛ | 60⅛ | 59⅛ | 1.304 | 15.85 | 1872.... | 59⅛ | 61⅛ | 60 5/16 | 1.322 | 15.63 |
| 1839 .... | 60 | 60⅛ | 60⅛ | 1.323 | 15.62 | 1873.... | 57⅞ | 59 11/16 | 59 7/16 | 1.29769 | 15.98 |
| 1840 .... | 60⅛ | 60⅜ | 60⅛ | 1.323 | 15.62 | 1874.... | 57⅛ | 59⅛ | 58 5/16 | 1.27883 | 16.16 |
| 1841 .... | 59⅜ | 60⅛ | 60 1/16 | 1.316 | 15.70 | 1875.... | 55⅛ | 57⅛ | 56 1/16 | 1.24233 | 16.64 |
| 1842 .... | 59⅛ | 60 | 59 7/16 | 1.303 | 15.87 | 1876.... | 46⅜ | 58⅛ | 53⅛ | 1.16414 | 17.75 |
| 1843 .... | 59 | 59⅛ | 59 1/16 | 1.297 | 15.93 | 1877.... | 53⅛ | 58⅛ | 54 1/16 | 1.20189 | 17.20 |
| 1844 .... | 59⅛ | 59⅜ | 59⅛ | 1.301 | 15.85 | 1878.... | 49⅛ | 55⅛ | 52⅛ | 1.15358 | 17.92 |
| 1845 .... | 58⅞ | 59⅛ | 59⅛ | 1.298 | 15.92 | 1879.... | 48⅞ | 53⅛ | 51⅛ | 1.12392 | 18.39 |
| 1846 .... | 59 | 60⅛ | 59 5/16 | 1.30 | 15.90 | 1880.... | 51⅛ | 52 15/16 | 52⅛ | 1.14507 | 18.05 |
| 1847 .... | 58⅛ | 60⅛ | 59 11/16 | 1.308 | 15.80 | 1881.... | 50⅞ | 52⅞ | 51⅛ | 1.13229 | 18.25 |
| 1848 .... | 58⅛ | 60 | 59⅛ | 1.304 | 15.85 | 1882.... | 50 | 52⅛ | 51 1/16 | 1.13562 | 18.20 |
| 1849 .... | 59⅛ | 60 | 59⅜ | 1.309 | 15.78 | 1883.... | 50 5/16 | 51 3/16 | 50 5/16 | 1 10874 | 18.64 |
| 1850 .... | 59⅛ | 61⅛ | 61 5/16 | 1.316 | 15.70 | 1884.... | 49⅛ | 51⅛ | 50 1/16 | 1.11068 | 18.61 |
| 1851 .... | 60 | 61⅛ | 61 | 1.337 | 15.46 | 1885.... | 46⅞ | 50 | 48 7/16 | 1.06510 | 19.41 |
| 1852 .... | 59⅜ | 61⅞ | 60⅛ | 1.326 | 15.59 | 1886.... | 42 | 47 | 45⅛ | .99467 | 20.78 |
| 1853 .... | 60⅛ | 61⅞ | 61⅛ | 1.348 | 15.33 | 1887.... | 43⅛ | 47⅛ | 44 1/16 | .97946 | 21.10 |
| 1854 .... | 60⅞ | 61⅞ | 61⅛ | 1.348 | 15.33 | 1888.... | 41⅛ | 44 5/16 | 42⅞ | .93974 | 22.00 |
| 1855 .... | 60 | 61⅛ | 61 3/16 | 1.344 | 15.38 | 1889.... | 41 13/16 | 44⅞ | 42 1/16 | .98511 | 22.10 |
| 1856 .... | 60⅛ | 62⅛ | 61 3/16 | 1.344 | 15.38 | 1890.... | 43⅛ | 54⅛ | 47⅛ | 1.04634 | 19.75 |
| 1857 .... | 61 | 62⅛ | 61⅞ | 1.353 | 15.27 | 1891.... | 43⅛ | 48⅞ | 45 1/16 | .98800 | 20.92 |
| 1858 .... | 60⅞ | 61⅞ | 61 3/16 | 1.344 | 15.38 | 1892.... | 37⅞ | 43⅛ | 39⅛ | .87145 | 23.72 |
| 1859 .... | 61⅛ | 62⅛ | 62 1/16 | 1.36 | 15.19 | 1893.... | 30⅛ | 38⅛ | 35 5/16 | .78030 | 26.49 |
| 1860 .... | 61⅛ | 62⅛ | 61 11/16 | 1.352 | 15.29 | 1894.... | 27 | 31⅛ | 28 11/16 | .63479 | 32.56 |
| 1861 .... | 60½ | 61⅛ | 60 13/16 | 1.333 | 15.50 | 1895.... | 27 3/16 | 31⅛ | 29 1/16 | .65406 | 31.60 |
| 1862 .... | 61 | 62⅛ | 61 7/16 | 1.346 | 15.35 | 1896.... | 29⅛ | 31 15/16 | 30 1/16 | .67565 | 30.59 |
| 1863 .... | 61 | 61⅞ | 61⅛ | 1.345 | 15.37 | 1897.... | 23⅛ | 29 1/16 | 27 5/16 | .60483 | 34.20 |
| 1864 .... | 60⅛ | 62⅛ | 61⅛ | 1.345 | 15.37 | 1898.... | 25 | 28⅛ | 26 1/16 | .59010 | 35.03 |
| 1865 .... | 60⅛ | 61⅛ | 61 1/16 | 1.338 | 15.44 | 1899.... | 26⅛ | 29 | 27 7/16 | .60154 | 34.36 |
| 1866 .... | 60⅛ | 62⅛ | 61⅛ | 1.339 | 15.43 | 1900.... | 27 | 30⅛ | 28 5/16 | .62007 | 33.33 |

53 HENRY M. HOYT,
*Solicitor-General.*
ALBERT COMSTOCK. A. B. B.,
*Counsel for Respondents.*

DECEMBER 30, 1904.

54 (Indorsement on cover:) File No. 19513. Supreme Court U. S., October term, 1904. Term No. 413. The United States, petitioner, *vs.* Morris Whitridge et al., etc. Stipulation and addition to record. Filed, Jan. 10, 1905.

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